



W.P(MD)No.336 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.336 of 2024

and

W.M.P(MD)Nos.336 and 337 of 2024

Murugan

... Petitioner

-Vs-

1.The District Collector,
Kanyakumari District,
Kanyakumari.

2.The Block Development Officer,
Thovalai Village Union,
Kanyakumari District.

3.The Village President,
Sagayanagar Village,
Thovalai,
Kanyakumari District.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned notice affixed by the third respondent to seal the petitioner's shop situated at Shop No.1-37, Vellamadam Junction, Thovalai, Kanyakumari District and quash the same



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and consequently direct the third respondent to consider the petitioner's application dated 08.08.2023 in pursuant to the order in W.P(MD)No.28473 of 2023, dated 04.12.2023.

For Petitioner : Mr.T.Palanisamy

For Respondents : Mr.P.Thambidurai
Govt. Advocate (for R1)

Mr.C.Baskaran
Govt. Advocate (for R2)

Mr.Niranjan S.Kumar (for R3)

ORDER

This Writ Petition is filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned notice affixed by the third respondent to seal the petitioner's shop situated at Shop No.1-37, Vellamadam Junction, Thovalai, Kanyakumari District and quash the same and consequently direct the third respondent to consider the petitioner's application dated 08.08.2023, pursuant to the order in W.P. (MD)No.28473 of 2023, dated 04.12.2023.



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2. The case of the petitioner is that he is running a broiler shop in the name of Vaigai Broilers situated at Shop No.1-37, Vellamadam Junction, Nagercoil and number of local people are buying broiler chicken in his shop and there is no complaint made from any general public and the petitioner is running the above said business peacefully from the year 2020. In order to running the said shop, the petitioner has properly applied before the Food Safety and Standards Authority of India and obtained a registration certificate. The petitioner is running the above said shop in the shop belonging to one Maniammal. The petitioner has entered into a lease agreement with the above said owner on 17.07.2020 and the rent was originally fixed at Rs.7,000/- per month. Thereafter, the shop owner has tried to evict the petitioner from the above shop forcibly without any proper reason. Hence, he filed a suit in O.S.No.49 of 2022 before the District Munsif-cum-Judicial Magistrate, Boothapandi and the same is pending. While so, at the instigation of the shop owner, the third respondent/Village President had sent a notice dated 21.07.2023 and 01.08.2023, seeking explanation for running the above shop without permission of the third respondent. After receipt of the above notice, the petitioner has sent an



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explanation stating that he has obtained proper permission from the Food Safety and Standards Authority of India and he has enquired before the third respondent's Office for permission. However, the third respondent stated that there is no permission required for small shops. Further, the petitioner requested the third respondent to grant permission, if any permission is required for running broiler shop. While so, the third respondent has passed a resolution number 126, dated 08.08.2023, to seal the petitioner's shop, in the absence of the petitioner and without providing any opportunity to him. The said fact has come to the petitioner's knowledge at the time of affixing the notice on 29.11.2023. Hence, the petitioner filed a writ petition in W.P. (MD)No.28473 of 2023. This Court, vide order dated 04.12.2023, disposed of the said writ petition directing the third respondent to consider the petitioner's application dated 08.08.2023 and dispose it of on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. This Court further observed that the rights of the petitioner as well as the impugned order will abide by the decision to be taken by the third respondent.



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3. After receipt of the above said order, the petitioner has appeared before the third respondent for getting license to him. After that the petitioner is in the legitimate expectation that the third respondent might have issued license to him for running the above said broiler shop. However, to his shock and surprise, the third respondent has affixed a notice to seal his shop on 05.01.2024, without considering the application, as per the order of this Court. Challenging the same, the petitioner has filed the present writ petition.

4. The learned counsel appearing for the third respondent would submit that since the petitioner's broiler shop creating health hazards to the local persons and a complaint has been received from the local persons, show cause notice has been issued and then only they proceeded further. He would further submit that the petitioner has been misusing the premises and all the wasted materials from the said business have been thrown out in the open space and there is a complaint from the local persons regarding this issue. Further, as per the rules and regulations of the local body, they have not obtained any permission as the application seeking permission is still



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pending.

5. At this juncture, the learned counsel appearing for the petitioner would submit that the petitioner is ready to run the grocery shop in the said shop.

6. Considering the above said facts, this Court directs the petitioner to give an application before the respondents afresh seeking permission to run a grocery shop and on receipt of the same, the respondents shall consider the same and pass appropriate orders, after giving opportunity to all the parties concerned, within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, this writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes/No
Internet : Yes/No

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To

- 1.The District Collector,
Kanyakumari District,
Kanyakumari.
- 2.The Block Development Officer,
Thovalai Village Union,
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